

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

SALVATORE LAURIA
Defendant.

98—CR 1102 (ILG)

Honorable I. LEO GLASSER

District Judge

NOTICE OF MOTION

PLEASE TAKE NOTICE, that defendant Salvatore Lauris will move this Court before the Honorable I. Leo Glasser, District Judge, at time and place to be set by the Court as soon as practicable for an order unsealing the Information to which the defendant entered his guilty plea, the transcript of his guilty plea, the 5K letter submitted by the government at sentencing, and the transcript of the sentencing on February 4, 2004. In support this motion, defendant will rely upon all pleadings had herein and the accompanying declaration of Thomas E. Moseley, executed March 11, 2016. A proposed order is also attached.

Dated: March 11, 2016.
Newark, New Jersey

Thomas E. Moseley

THOMAS E. MOSELEY
One Gateway Center--Suite 2600
Newark, New Jersey 07102
Tel. (973) 622-8176
Attorney for Defendant

UNITED STATES DISTRICT COURT
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DECLARATION OF THOMAS E. MOSELEY

1. I am member of the bar of this court and have filed my notice of appearance for the defendant, Salvatore Lauria. I also represent Mr. Lauria in immigration matters, including a pending petition for review before the United States Court of Appeals for the Second Circuit, Lauria v. Lynch, C/A Dkt. No. 15-1068. I make this declaration in support of Mr. Lauria's motion to unseal the information to which he entered his guilty plea, the transcript of the guilty plea and the transcript of the sentencing.

2. By way of background, Mr. Lauria was placed in removal proceedings as inadmissible to the United States under 8 U.S.C. §1182(a)(2) following a brief trip abroad, was ordered removed by the Hartford Immigration Court and this removal order was affirmed by the Board of Immigration Appeals. Mr. Lauria's removal case is now before the Second Circuit on petition for review and his reply brief is due on or before March 23, 2016. The administrative record in this case is a matter of public record and discloses Mr. Lauria's cooperation with the government.

3. An issue has arisen in this case about the date Mr. Lauria's offense actually concluded, which is relevant to his argument that he could not be considered an applicant for admission under Vartelas v. Holder, -U.S.-, 132 S.Ct. 1479, 1485 (2012) because his offense

occurred prior to the April 1, 1997 effective date of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 3009. This information about when Mr. Lauria's offense concluded, does not appear in the judgment of conviction, a copy of which is attached as Exhibit A. Under these circumstances, unsealing of the Information referenced in the judgment of conviction, the guilty plea transcript and the sentencing transcript and the government's 5K letter appear likely to provide a definitive answer to this open question. Since the fact of Mr. Lauria's cooperation is now matter of public record, there would not appear to be any reason that these materials should remain sealed.

I declare under penalty of perjury in accordance with 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on March 11, 2016

/s/Thomas E. Moseley
THOMAS E. MOSELEY

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

JUDGMENT INCLUDING
SENTENCE FOR OFFENSES
COMMITTED ON OR AFTER 11-1-87

VS.

CASE NO.: CR 98-1102 (ILG)

SALVATORE LAURIA

ERIC CORNGOLD
Assistant United States Attorney

FRED GURNO
Court Reporter

ROBERT STAHL
Defendant's Attorney

THE DEFENDANT: SALVATORE LAURIA
XX PLEAD GUILTY TO COUNT 1 OF THE INFORMATION.

Accordingly, the defendant is ADJUDGED guilty of such Count(s), which involve the following offenses:

<u>TITLE AND SECTION</u>	<u>NATURE AND OFFENSE</u>	<u>COUNT NUMBERS</u>
18 USC 1962 (c) and 1963(a)	RACKETEERING	COUNT 1

The defendant is sentenced as provided in pages 2 through 4 of the Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) and discharged as to such count(s).
- Open count in the indictment is dismissed on the motion of the United States.
- The mandatory special assessment is included in the portion of Judgment that imposes a fine.
- X It is ordered that the defendant shall pay to the United States a special assessment of \$100.00 which shall be due immediately.

It is further ORDERED that the defendant shall notify the United States Attorney for this District within 30 days of any change of residence or mailing address until all fines, restitution, costs and special assessments imposed by this Judgment are fully paid.

FEBRUARY 5, 2004
Date of Imposition of Sentence

56695-053
Defendant's USM #

08/30/62
Date of Birth

054-62-4508
Defendant's Soc. Sec. Number

91 GEORGETOWN RD., WESTON CONNECTICUT
Defendant's mailing address


HON. I. LEO GLASSER, U.S.D.J.
DATE: FEBRUARY 23, 2004

000403

DEFENDANT: SALVATORE LAURIA
CASE NUMBER: CR 98-1102 (ILG)

JUDGMENT-PAGE 2 OF 4

PROBATION

The defendant is hereby placed on probation for a term of FIVE (5) YEARS ON COUNT 1.

The defendant shall not commit another Federal, State or Local crime.
The defendant shall not unlawfully possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

 The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

 The defendant shall not possess a firearm as defined in 18 U.S.C. Sect. 921.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the schedule of payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth in the "Standard Conditions of Supervision" sheet.

The defendant shall comply with the following additional conditions:

THE DEFENDANT TO SERVE 300 HOURS OF COMMUNITY SERVICE

TH DEFENDANT IS TO SERVE 12 MONTHS HOME CONFINEMENT

THE GOVERNMENTS MOTION PURSUANT TO 5K1.1 - GRANTED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

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Honorable I. LEO GLASSER

District Judge

PROPOSED ORDER

Defendant having moved to unseal certain portions of the record in this case,

IT IS HEREBY ORDERED ADJUDGED AND DECREED, that the motion is granted and that the following items are unsealed: 1) Information to which the defendant entered his guilty plea, 2) the transcript of defendant's guilty plea, 3) the 5K letter submitted by the government at sentencing, and 4) the transcript of defendant's sentencing on or about February 5, 2004, and that release of the transcript to defendant's counsel may be conditioned upon payment of the fee charged by the Court reporter for transcription.

AND IT IS FURTHER ORDERED, that in the event the above referenced transcripts have not yet been transcribed, the Court reporter for is authorized to transcribe them and provide them to defendant's counsel upon payment of the fee charged by the Court reporter for transcription

Dated: March ,2016
Brooklyn, New York

I. LEO GLASSER
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

SALVATORE LAURIA
Defendant.

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Honorable I. LEO GLASSER

District Judge

CERTIFICATION OF SERVICE

I hereby certify that on March 11, 2016 I personally served the attached notice of motion, declaration of Thomas E. Moseley and proposed order by ECF and by Federal Express addressed to

Chief, Criminal Division
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

I am aware that I am subject to punishment if I have made a false statement in this certification.

/s/Thomas E. Moseley
THOMAS E. MOSELEY